

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

Blitman Saratoga LLC,

Case No. 20-23177 (RDD)

Debtor.

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**ORDER GRANTING DEBTOR'S MOTION APPROVING THE
SALE OF THE RESIDENTIAL HOME LOCATED AT
57 JANE STREET TO THE GUIFFRE FAMILY FREE AND CLEAR
OF ALL LIENS, CLAIMS, AND INTERESTS**

Upon the motion (ECF No. 120) (the “Motion”)¹ of Blitman Saratoga LLC, the debtor and debtor in possession (the “Debtor”), seeking authorization to sell the residential home (the “Sale”) at 57 Jane Street, Saratoga Springs, NY (the “57 Jane Property”) to Tom and Marlene Guiffre (the “Guiffre Family”) for the sum of \$538,000, pursuant to the Purchase Agreement annexed to the Motion as Exhibit “A” (the “Guiffre Contract”), free and clear of all liens, claims, interests and encumbrances of whatever kind or nature on, in, or against the 57 Jane Property, except as expressly assumed by purchaser under the Guiffre Contract (the “Liens and Claims”), pursuant to 11 U.S.C. §§ 363(b) and (f); and good and sufficient notice of the Motion having been given; and upon considering the Response of the City of Saratoga Springs (ECF No. 142), the Affirmation in Response submitted on behalf of the Official Committee of Unsecured Creditors (ECF No. 130), and the Limited Objection of Robin Winter, as the Executor of the Estate of Howard Blitman (ECF No. 132); and upon considering the Debtor’s Response thereto (ECF No. 145) attaching a proposed closing statement for the sale and proposed schedule for the completion of infrastructure; and a hearing having been held before the undersigned on December 5, 2022; and upon the record compiled at the hearing, at which time the Court determined that the proposed Sale constitutes a

¹ All terms defined in the Motion shall have the same meanings for purposes of this Order.

proper exercise of the Debtor's business judgment; and Saratoga Funding LLC (the "DIP Lender") having consented to modify the *Final Order Authorizing the Debtor to Obtain Postpetition Financing Pursuant to 11 U.S.C. §§362 and 364(c)* (ECF No. 38) (the "DIP Order") over the objection of the Estate of Howard Blitman, to permit the Debtor to use the net sale proceeds to resume construction of infrastructure and secure properties under construction to the extent of \$375,000, with the balance of the net proceeds to be used for other aspects of the project and to continue construction of the Debtor's other houses in development; and the Debtor has satisfied one or more of the grounds for the proposed sale to be free and clear of Liens and Claims under 11 U.S.C. § 363(f); and good and sufficient cause appearing, it is hereby

ORDERED, that the Motion is granted as provided herein; and it is further

ORDERED, that the Debtor is authorized to sell the 57 Jane Property to the Guiffre Family for the sum of \$538,000 in accordance with the Guiffre Contact and this Order; and it is further

ORDERED, that the Sale of the 57 Jane Property shall be free and clear of Liens and Claims on the 57 Jane Property pursuant to 11 U.S.C. §§ 363(b) and (f), with such Liens and Claims to attach to the sale proceeds in the same amount and priority, with the same validity and enforceability, and subject to the same defenses as such Liens and Claims had in, on or against the 57 Jane Property immediately before the closing of such sale; provided, that, such attachment shall be subject to the DIP Lender's agreement to defer all payment and reduction of the BSNB Loans (as defined in the DIP Order) relating to 57 Jane Property to provide liquidity for the Debtor to resume construction of infrastructure work, resume construction of the Debtor's other houses under development and pay other project costs; and it is further

ORDERED, that the Debtor is authorized to pay all reasonable closing costs and expenses including outstanding real estate taxes at the closing, the bills owed to Boswell Engineering of

\$6,592.00 and the mechanic's lien of Callanan Industries, Inc. totaling \$3,049.50 (with any amounts in excess of this sum to be held in reserve), provided, that Debtor shall also establish an escrow with Debtor's counsel in an amount equal to all requested or proposed brokers' commissions (including direct brokers, sub-brokers and co-brokers) pending submission of an application or applications for allowance thereof under 11 U.S.C. § 330, which application(s) shall include a certification from the brokers involved as to the division of the respective commissions among them, with the net Sale proceeds to be used as provided below; and it is further

ORDERED, that following the closing, the Debtor shall deposit \$375,000 into a separate DIP Account titled "DIP Infrastructure Account" to perform the following work, weather permitting, (a) winterize all existing construction and protect from further vandalism; (b) install butterfly fence; (c) start additional work on curbing and sidewalks; and (d) order streetlights; and it is further

ORDERED, that the residual net Sale proceeds generated from the Sale of the 57 Jane Property after payment, escrow or deposit of (i) reasonable closing costs and expenses; (ii) Boswell Engineering and Callanan Industries, Inc.; and (iii) the reserve for the amount of requested or proposed brokers' commissions, shall be used by the Debtor to resume construction of infrastructure to the extent of \$375,000 as provided above and to continue construction of the Debtor's other houses under development, and to pay other aspects of the project (including the anticipated settlement with the Dorsey family in the sum of \$30,000); and it is further

ORDERED, that DIP Lender, by countersigning this Order, has agreed to defer payment and reduction of the BSNB Loans (as defined in the DIP Order) and mortgage release and line of credit paydowns from the Sale so as to permit resumption of infrastructure work, continue

construction of the Debtor's other houses under development and the payment of other project costs, all as provided above; and it is further

ORDERED, that the Debtor shall file on the case docket the final closing statement for the Sale of 57 Jane Property promptly after the transaction is closed; and it is further
ORDERED, that the 14-day stay of this Order under Bankruptcy Rule 6004(h) is waived, for cause shown, and this Order is effective immediately upon its entry.

Dated: White Plains, New York
December 23, 2022

/s/ Sean H. Lane

United States Bankruptcy Judge

No Objection:
Saratoga Funding LLC

By: /s/ Jay Russ